IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTIETH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 8717 of 2005

Between:

1 M/s.H.R.R.Constructions Pvt.Ltd., rep., by its Director
Sri H.N.Raghavender, s/o H.B.Narayana Swamy,
o/o Ward No.18, Waltair Road, Visakhapatnam.
2 M/s.Aniragh Constructions Pvt.Ltd., rep., by its Director
Sri H.N.Raghavender, s/o H.B.Narayanaswamy,
o/o Ward No.18, Waltair Road, Visakhapatnam.
3 M/s.Shimani Constructions Pvt.Ltd., rep., by its Director
Sri H.N.Raghavender, s/o H.B.Narayanaswamy,
o/o Ward No.18, Waltair Road, Visakhapatnam.
4 M/s.Soudamani Constructions Pvt.Ltd., rep., by its Director
Sri H.N.Raghavender, s/o H.B.Narayanaswamy,
o/o Ward No.18, Waltair Road, Visakhapatnam.
5 M/s.Fineshine Developers Pvt.Ltd., rep., by its Director
Sri H.N.Raghavender, s/o H.B.Narayanaswamy,
o/o Ward No.18, Waltair Road, Visakhapatnam.
6 M/s.Ramshil Constructions Pvt.Ltd., rep., by its Director
Sri H.N.Raghavender, s/o H.B.Narayanaswamy,
o/o Ward No.18, Waltair Road, Visakhapatnam.
7 M/s.H.N.P.Constructions Pvt.Ltd., rep., by its Director
Sri H.N.Raghavender, s/o H.B.Narayanaswamy,
o/o Ward No.18, Waltair Road, Visakhapatnam.
8 M/s.H.R.S.Constructions Pvt.Ltd., rep., by its Director
Sri H.N.Raghavender, s/o H.B.Narayanaswamy,
o/o Ward No.18, Waltair Road, Visakhapatnam.
9 M/s.Jaishil Constructions Pvt.Ltd., rep., by its Director
Sri H.N.Raghavender, s/o H.B.Narayanaswamy,
o/o Ward No.18, Waltair Road, Visakhapatnam.
10 M/s.H.B.J.Constructions Pvt.Ltd., rep., by its Director
Sri H.N.Raghavender, s/o H.B.Narayanaswamy,
o/o Ward No.18, Waltair Road, Visakhapatnam.
11 M/s.Seema Constructions Pvt.Ltd., rep., by its Director
Smt.Seema Tyagaraj, w/o Karunakara,
o/o Ward No.18, Waltair Road, Visakhapatnam.
12 M/s.Janet Property Developers Pvt.Ltd., rep., by its Director

Smt.J.Malini Tyagaraj, w/o H.R.Ratnakara Tyagaraj,
o/o Ward No.18, Waltair Road, Visakhapatnam.
13 M/s.Jyotshna Estates Pvt.Ltd., rep., by its Director
Smt.Jyotshna Christiana, w/o Ananda Kumar,
o/o Ward No.18, Waltair Road, Visakhapatnam.

14 M/s.Tyagaraj Constructions Pvt.Ltd., rep., by its Director "
Sri H.R.Ratnakar Tyagaraj, s/o Joshdas,
o/o Ward No.18, Waltair Road, Visakhapatnam.
15 M/s.Christiana Constructions Pvt.Ltd., rep., by its Director
Smt.Jyotshna Christiana, w/o Ananda Kumar,
o/o Ward No.18, Waltair Road, Visakhapatnam.
16 M/s.Dinakar Constructions Pvt.Ltd., rep., by its Director
Dinakar Tyagaraj, s/o H.R.Ratnakar Tyagaraj,
o/o Ward No.18, Waltair Road, Visakhapatnam.
17 M/s.Chintakunta Constructions Pvt.Ltd., rep., by its Director
Ch.Madhusudhanarao, o/o Ward No.18, Waltair Road,
Visakhapatnam.
18 M/s.Sunita Estates Private Ltd., rep., by its Director
Sri T.C.Karunakar, s/o H.R.Ratnakar,
o/o Ward No.18, Waltair Road, Visakhapatnam.

..... PETITIONERS

AND

Visakhapatnam Municipal Corporation, rep., by its
Commissioner and Special Officer, Visakhapatnam
Municipal Corporation, Visakhapatnam.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue any writ or order or direction more particularly one in the nature of writ of mandamus, directing the respondent not to demolish the buildings property of the petitioner bearing Door Nos.10-1-6, 10-1-6A to 10-1-6Z, and 10-1-7, situated in Sy.No.75, Waltair Ward in Ward No.18, Waltair Road, Visakhapatnam Municipal Corporation by holding that the action of the respondent in trying to demolish the said property without following due process of law as illegal, arbitrary and without jurisdiction.

Counsel for the Petitioners:MR.RAJA REDDY KONETI

Counsel for the Respondent : MR.N.RANGA REDDY (SC FOR MNICIPAL CROP. VSP.)

The Court, at the stage of admission, made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO. 8717 OF 2005

ORDER:

Heard the learned counsel for the petitioners and the learned standing counsel appearing for respondent.

Petitioners seek a Writ of Mandamus to declare the action of the respondent in trying to demolish the buildings of the petitioners bearing Door Nos. 10-1-6, 110-1-6A, 10-1-6Z and 10-1-7 situated in S.NO. 75, Ward No.18, Waltair Road, Visakhapatnam, without following due process`````s of law for the purpose of proposed road widening work, as arbitrary and illegal.

It is represented by the learned counsel appearing for both parties that the issue involved in this writ petition is squarely covered by a decision of this Court in W.P. No. 21198 of 1997 and batch, dated 03-02-1998, wherein the Division Bench while considering an identical question, issued guidelines as under:

> *"1. Where a property is required for public purpose viz., widening of roads or for any other purpose, the authorities straightaway cannot take law into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.*
>
> 2. *If the authorities concerned want to take action for eviction/dispossession of the occupants or demolition, they shall issue 60 days' prior notice notifying as to the nature of the property, the property to whom it belongs and the proposed action calling for explanation/objections if any from the occupants. On receipt of such objections, if there is any objection as to the ownership of the property, the authorities should determine the extent of encroachment of unauthorized occupation and also determine whether the property in question belongs to Government/any other local self Government or authority or the occupants and pass appropriate orders within three months from the date of receipt of the objections, after affording an opportunity of being heard to the occupants.*

3. *In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the assessment to be made by the Engineer of the Roads and Buildings Department and disburse the amount of damages quantified forthwith.*

4. *If the demolition is in respect of local bodies' Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.*

5. *In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of R & B Department and on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.*

6. *If there is any claim for grant/assessment of the property, the concerned authorities shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of occupants, after making enquiry and till such claim is decided, there shall be status-quo obtaining as on today regarding the structures."*

The learned standing counsel appearing for the respondent-Municipality does not dispute the above legal position.

The writ petition is accordingly disposed of directing the respondent not to demolish the buildings in question without following the guidelines issued by the Division Bench in common order dated 03-02-1998 in W.P. No. 21198 of 1997 and batch. No costs.

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(**G. ROHINI, J**)

Date: 20-04-2005

Note : Issue operative portion by wire

at party's cost.

(B/O)

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To

1) The Commissioner and Special Officer, Visakhapatnam Municipal Corporation, Visakhapatnam.
2) **2 CD copies**

3) 1 CC to MR.RANGA REDDY